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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,771	02/06/2006	Angus Peter Robson	7493P002	8721
8791 7590 05/04/2007 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			EXAMINER SMITH, SCOTT A	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 05/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,771

Applicant(s)

ROBSON, ANGUS PETER

Examiner

Scott A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 59 and 61 are objected to because of the following informalities: Claim 59 is in improper dependent form. The claim is a method depending from an apparatus claim. Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mechanism for reciprocating the hammer, as well as the dog fixed to the chain, as set forth in claim 55 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 49-62 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite a “drive mechanism for reciprocating the hammer”. However, the disclosure merely discloses a means for lifting the hammer via the chain, wherein the hammer thereafter drops due to gravity. This doesn’t properly constitute a mechanism “for reciprocating”, per se, which requires a means for providing movement in two opposite directions.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 50-55, 59, 61 and 62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 50, line 4, the recitation of "any force acting to pushing the hammer" is grammatically awkward. In claim 51, "a face of the hammer" is recited on line 2. However, the face is already recited in claim 49. Is this the same face or a different face? Claim 55 is indefinite since "the opening end" on line 4 lacks proper antecedent basis. Perhaps "opening" should be changed to "open". Claim 59 is indefinite since the scope cannot be determined. It is a method claim which depends from an apparatus claim. What does this claim specifically? Perhaps claims 59 and 61 should be rewritten or canceled. Claims 61 and 62 recite "a hammer face" on the last line. Is this the same hammer face already claimed in preceding claims, or another face? This renders the claim indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 49-53, 56 and 58-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minotti et al. '317 in view of Lamoureux et al. '365.

Minotti et al. 317 discloses the invention substantially as claimed including a housing 56, 58, 62 having an opening at an end 60 thereof, a hydraulic drive mechanism 12 for "reciprocating" a hammer 16, 88 and mounted in the housing, wherein the apparatus is connected to a machine 20 via an articulating arm. However, Minotti et al. '317 lacks the hammer lock. Lamoureux et al. '365 discloses a hammer 2,

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22 reciprocable in housing 1, and lockable in a variety of desired axial positions via a locking mechanism including an eccentric portion 13 and an actuator 15. In view of the teachings of Lamoureux et al. '365, it would have been obvious to one skilled in the art to provide the apparatus of Minotti et al. '317 with the claimed hammer lock in order to secure the hammer relative to the housing in a desired position during for example an auxiliary operation, or during apparatus transport.

Claims 49-53, 55, 56, and 59-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene et al. '500 in view of Lamoureux et al. '365.

Greene et al. '500 discloses the invention substantially as claimed including a housing 53 having an opening at an end 96 thereof, a chain drive mechanism 54 including a dog 65 cooperating with a hammer projection 66 for "reciprocating" a hammer 55 and mounted on the housing, wherein the apparatus is connected to a machine 20 via an articulating arm. However, Greene et al. '500 lacks the hammer lock. Lamoureux et al. '365 discloses a hammer 2, 22 reciprocable in housing 1, and lockable in a variety of desired axial positions via a locking mechanism including an eccentric portion 13 and an actuator 15. In view of the teachings of Lamoureux et al. '365, it would have been obvious to one skilled in the art to provide the apparatus of Greene et al. '500 with the claimed hammer lock in order to secure the hammer relative to the housing in a desired position during for example an auxiliary operation, or during apparatus transport.

Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Minotti et al. '317 or Greene et al. '500 as applied to claim 49 above, and further in view of Cunningham '455.

The modified device of Minotti et al. '317 and Greene et al. '500 lacks the actuator being hydraulically powered. Cunningham '455 discloses a similar tool wherein a ram R is restrained from movement within tool housing via a hydraulic actuator 175. In view of the teachings of Cunningham '455, it would have been obvious to one skilled in the art to hydraulically actuate the hammer lock of the modified Minotti et al. '317 or Greene et al. '500 device in order to more effectively secure the hammer in a desired position.

Allowable Subject Matter

Claim 54 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the attached PTO-892 for related art.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A. Smith whose telephone number is 571-272-4469. The examiner can normally be reached on 5:30-4:00 Tues.-Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Smith



SCOTT A. SMITH
PRIMARY EXAMINER